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9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA
11 WESTERN DIVISION

12 J.L. BOYD, R. CAMOU, and C.
ROBINSON,

13 Plaintiffs,

14 v.

15 ROBERT LUNA, KATHRYN BARGER,
16 JANICE HAHN, HOLLY MITCHELL,
17 HILDA SOLIS, LINDSEY HORVATH,
HUGO MACIAS, and 9 UNKNOWN
NAMED DEFENDANTS,

18 Defendants.
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CASE NO.: 2:24-cv-05716-SPG-AJR

Hon. Sherilyn Peace Garnett

**DEFENDANTS' EVIDENTIARY
OBJECTIONS AND REQUEST TO
STRIKE PLAINTIFFS' RULE 28(J)
ANALOG IN SUPPORT OF
MOTIONS FOR CLASS
CERTIFICATION AND
PRELIMINARY INJUNCTION
(DKT. 43)**

*[Proposed] Order filed concurrently
herewith*

1 Defendants Robert Luna, Kathryn Barger, Janice Hahn, Holly Mitchell, Hilda
2 Solis, Lindsey Horvath, and Hugo Macias (“Defendants”) hereby object to, and
3 respectfully request that the Court strike, Plaintiffs’ “Rule 28(j) Analog” in support of
4 their pending motions for class certification and a preliminary injunction. (*See* Dkt. 43.)

5 Presently fully briefed and pending before the Court are Plaintiffs’ motions for
6 class certification and a preliminary injunction. The class certification motion was fully
7 briefed on September 9, 2024. (*See* Dkt. 31.) The motion for preliminary injunction
8 was fully briefed on September 16, 2024. (*See* Dkt. 35.)

9 One month later, on October 13, 2024, Plaintiffs filed Docket No. 43, which is
10 captioned “Plaintiff’s Rule 28(j) Analog in Support of Motions for Class Certification
11 and Preliminary Injunction.” Defendants object to this document, and request that it be
12 stricken, for three reasons.

13 First, this document was purportedly filed pursuant to Rule 28(j) of the Federal
14 Rules of Appellate Procedure. Those rules are not applicable in this action, and there is
15 no provision in the Federal Rules of Civil Procedure providing for Plaintiffs’
16 submission.

17 Second, Plaintiffs’ submission denies Defendants the ability to submit an
18 authorized response in violation of their due process rights. *See T.L. v. Orange Unified*
19 *Sch. Dist.*, 2024 WL 305387, at *1 n.1 (C.D. Cal. Jan. 9, 2024) (“The court finds no
20 reason to depart from the general principle that the court does not consider new
21 evidence or argument first submitted on reply”); *see also, e.g., Zamani v. Carnes*, 491
22 F.3d 990, 997 (9th Cir. 2007) (“The district court need not consider arguments raised
23 for the first time in a reply brief.”); *FT Travel--N.Y., LLC v. Your Travel Ctr., Inc.*, 112
24 F. Supp. 3d 1063, 1079 (C.D. Cal. 2015) (“Courts decline to consider arguments that
25 are raised for the first time in reply.”); *Sliding Door Co. v. Glass Door Co., Inc.*, 2023
26 WL 4763330, at *3 n.3 (C.D. Cal. July 11, 2023) (disregarding arguments and evidence
27 raised for the first time on reply in order denying motion for preliminary injunction);
28 *Stuart v. Cnty. of Riverside*, 2024 WL 3455263, at *10 n.15 (C.D. Cal. Apr. 22, 2024)

(Garnett, J.) (citing *Zamani* for the proposition that arguments not raised in opening briefing can be disregarded); *Wallster, Inc. v. Redbubble, Inc.*, 2022 WL 17371051, at *5 n.4 (C.D. Cal. Oct. 21, 2022) (Garnett, J.) (declining to consider argument raised for the first time in reply brief).

Third, the submission merely attaches an article from the *Los Angeles Times*. The article is irrelevant to the pending motions. *See* Fed. R. Evid. 402. And the article is entirely hearsay, including multiple instances of hearsay within hearsay. *See* Fed. R. Evid. 802. Indeed, the excerpts that Plaintiffs underlined and highlighted for the Court are hearsay and contain hearsay within hearsay. Newspaper articles have previously been found to be inadmissible hearsay. *See, e.g., Perry v. Kemna*, 356 F.3d 880, 889 (8th Cir. 2004).

For the foregoing reasons, Defendants respectfully request that the Court strike Plaintiffs' Rule 28(j) Analog (Dkt. 43) in its entirety.

DATED: October 18, 2024

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By: /s/ Andrew Baum
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